

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**FAIR HOUSING CENTER OF
METROPOLITAN DETROIT
and DAR'SHA L. HARDY,**

Plaintiffs,

CIVIL ACTION No. 16-cv-12140

v.

DISTRICT JUDGE JOHN CORBETT O'MEARA

**IRON STREET PROPERTIES, LLC,
d/b/a RIVER PARK LOFTS;
BOYDELL DEVELOPMENT, INC.;
and DENNIS KEFALLINOS,**

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

OPINION AND ORDER DENYING PLAINTIFF'S MOTION TO COMPEL [20]

This matter comes before the Court on Plaintiff Fair Housing Center of Metropolitan Detroit's Motion to Compel Appearance and Testimony of Dennis Kefallinos and Liz Telegadas. (Docket no. 20.) Defendants have not filed a response. The Motion has been referred to the undersigned for consideration. (Docket no. 21.) The Court has reviewed the pleadings and dispenses with oral argument pursuant to Eastern District of Michigan Local Rule 7.1(f)(2). The Court is now ready to rule pursuant to 28 U.S.C. § 636(b)(1)(A).

On February 22, 2016, Plaintiff Dar'sha L. Hardy filed Civil Action No. 16-cv-10639, claiming that she was discriminated against on the basis of her race and familial status when, on May 28, 2015, she applied for housing at the River Park Lofts and was allegedly told by the rental agent, Ms. Liz Telegadas, that the property has a "[n]o kids in this building policy," and

that Plaintiff's son was a "little bit too young." Plaintiff Hardy alleges that she was fired from her job downtown because she could not find nearby housing. She also alleges that she subsequently contacted and filed a complaint with the Fair Housing Center of Metropolitan Detroit (FHCMD) and that FHCMD deployed two "testers," who were similarly informed that children were not allowed to live at River Park Lofts. FHCMD, through the same counsel as Plaintiff Hardy, then filed the instant civil action on June 10, 2016, against the same defendants, alleging the same facts, and seeking the same relief. (Docket no. 1.) District Judge John Corbett O'Meara granted Defendants' Motion to Consolidate the two cases on April 19, 2017. (Docket no. 23.)

Prior to consolidation, on January 6, 2017, Plaintiff Hardy filed a Motion to Compel the depositions of the rental agent at River Park Lofts, Ms. Liz Telegadas, and Defendant Dennis Kefallinos, whose previously-noticed depositions did not go forward as scheduled. While that Motion was pending, Plaintiff FHCMD noticed the depositions of Ms. Telegadas and Defendant Kefallinos for January 26, 2017. (Docket no. 20-2.) According to Plaintiff FHCMD, the evening before the depositions were set to take place, Defendants' counsel contacted Plaintiffs' counsel to cancel the depositions. (Docket no. 20 at 9.) Plaintiffs' counsel responded that the depositions would go forward as scheduled because there was no protective order in place canceling the depositions. (*Id.*) Indeed, on the morning of January 26, 2017, a court reporter appeared at the office of Plaintiffs' counsel to record the scheduled depositions, and when Defendants' counsel and the two deponents did not show up, Plaintiffs' counsel placed a statement indicating as much on the record. (Docket no. 20-4 at 3.) Plaintiff FHCMD filed the instant Motion to Compel the next day, through which it seeks a court order (a) compelling Ms. Telegadas and Defendant Kefallinos to appear for their depositions; (b) awarding Plaintiff

FHCMD the attorney's fees and costs associated with the Motion; (c) making a finding that Defendants have a "no kids are allowed to live in this building" policy; and (d) granting Plaintiff FHCMD any other just and proper relief. (Docket no. 20.)

On March 16, 2017, the Court granted in part Plaintiff Hardy's Motion to Compel and ordered Plaintiff Hardy to properly serve Defendants with new notices for the depositions of Ms. Telegadas and Defendant Kefallinos, to take place within thirty days of the Order. Under the Order, the depositions of Ms. Telegadas and Defendant Kefallinos should have been completed by April 17, 2017, and there is no indication that the parties have not complied with the Order. Accordingly, and in light of the facts that (1) Plaintiff FHCMD's complaint alleges the same facts and seeks the same relief against the same defendants as Plaintiff Hardy's complaint; (2) the same attorneys represent the parties in both Plaintiff Hardy and Plaintiff FHCMD's cases; and (3) the two cases have since been consolidated, the Court will deny Plaintiff FHCMD's Motion to Compel Appearance and Testimony of Dennis Kefallinos and Liz Telegadas as moot. To the extent that Plaintiff FHCMD seeks an award of fees and costs or any other sanctions, the Court does not find such relief to be warranted under the circumstances of this matter and will therefore, in its discretion, deny Plaintiff FHCMD's Motion in this regard.

IT IS THEREFORE ORDERED that Plaintiff Fair Housing Center of Metropolitan Detroit's Motion to Compel Appearance and Testimony of Dennis Kefallinos and Liz Telegadas [20] is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: May 2, 2017

s/ Mona K. Majzoub
MONA K. MAJZOUN
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon counsel of record on this date.

Dated: May 2, 2017

s/ Lisa C. Bartlett
Case Manager